

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
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UNITED STATES OF AMERICA

: **ATTORNEY'S AFFIRMATION**

v

: **05 Cr. 746 (VM)**

: **08 CIV.1932 (VM)**

ERIK W. NICHOLSON,

Defendant.

: U.S. SDNY

: DOCUMENT

: ELECTRONICALLY FILED

: DATE

: FILED: 7-17-08

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I, CHRISTOPHER A. FLOOD, hereby affirm under penalties of perjury pursuant to 28 U.S.C. § 1746:

1. I was formerly employed as a staff attorney at the Federal Defenders of New York, Inc. In the course of this employment, I was assigned to represent ERIK W. NICHOLSON in the above-captioned matter.

2. I represented Mr. Nicholson throughout negotiations, at the guilty plea allocution and at the sentencing hearing.

3. I currently reside and practice in New Orleans, Louisiana, and was made aware of the court's request for this affidavit on July 9, 2008. I have not had an opportunity to review Mr. Nicholson's file, which is in New York.

4. Mr. Nicholson entered a plea of guilty based on a plea agreement that included a waiver of his rights to a direct appeal or to litigate under Title 28 United States Code, Section 2255 and/or Section 2241.

5. During the course of plea negotiations, I went over with Mr. Nicholson each paragraph of the plea agreement in his case. I explained to Mr. Nicholson the fact that the plea agreement contained a waiver of appellate rights.

6. Mr. Nicholson did not ask me to file a notice of appeal at the time of sentence.

7. I have spoken today with Mr. John Byrnes of the Federal Defenders of New York, Inc., who has had an opportunity to review Mr. Nicholson's file. According to Mr. Byrnes, the file includes a notation of "no appeal."

8. It was not my practice to notate files at closing "no appeal" if a client had asked me to file a notice of appeal. Indeed, had Mr. Nicholson asked me to file a notice of appeal, I would have accordingly marked the file.

Dated: New Orleans, Louisiana

July 14, 2008



CHRISTOPHER A. FLOOD, ESQ.

